



TOWNSHIP OF NORTH BRUNSWICK

710 HERMANN ROAD
NORTH BRUNSWICK, NJ 08902

Tel.: (732) 247-0922 x440

Fax: (732) 289-3822

Website: WWW.NORTHBRUNSWICKNJ.GOV

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Mr. and Mrs. Wooten
369 Franklin Road
North Brunswick, NJ 08902

FROM: Sal Profaci, Zoning Officer

DATE: April 6, 2023

SUBJECT: 369 Franklin Road & Route 130 Corner Lot Fence
Block: 241 Lot: 8

Dear Mr. & Mrs. Wooten:

I have reviewed the application for a variance at the above-referenced address, and I am issuing the following report.

The following application materials were reviewed:

- o 1-sheet copy of the property survey dated 6/4/2021 prepared by Morgan Engineering.
- o 11-page Variance Application (Form C)

Project Description

1. The applicant proposes to install a (6) six-foot privacy fence in the required (40) forty-foot front yard setback along Route 130. Corner lots or all yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements of the zone.

Subject Property

2. The subject property is a .318-acre corner lot located at the intersection of Route 130 and Franklin Road. The single-family dwelling is located in the R-2 residential Zone.

Variances

The proposed development requires the following “C” variance(s):

Description	Max. Permitted	Proposed	Variance	Ordinance
Fence in Front Yard, Height	4 ft.	6 ft. (Route 130)	V	§ 205-93 (A) (1) (a)
Fence in Front Yard, Type	Open-type	Solid (Route 130)	V	§ 205-93 (A) (1) (a)

Technical

1. **Fence in Front Yard, Height** – The applicant proposes to install a 6 ft. privacy fence in the required 40 ft. front yard setback along Route 130, whereas only fences not exceeding 4 ft. in height above ground level may be permitted in the required front yard (205-93 (A) (1) (a)). The applicant should justify this variance and provide testimony to satisfy the C-1 (“hardship”) and/or C-2 (“benefits v. burdens”) variance criteria.
2. **Fence in Front Yard, Type** – The applicant proposes to install a 6 ft. privacy fence in the front yard along Route 130, whereas only open-type fences that are constructed in such a way that no more than 50% of the surface area of the fence obstructs a view through the fence from a position perpendicular to the fence may be permitted in the required front yard (§ 205-93 (A)(1)(a)). The applicant should justify this variance and provide testimony to satisfy the C-1 (“hardship”) and/or C-2 (“benefits v. burdens”) variance criteria.

The Township reserves the right to further comment based upon the testimony at the public hearing.

Completeness

1. Checklist:

The applicant must remit the following items in order for a completeness certification to be issued:

- Original and 14 Copies of the fully completed variance application form.
- W-9 Form
- 3 Copies of the Tax and Assessment Payment Report
- 15 Copies of the property survey indicating Fence along Franklin Road & Hwy Route 130
- Request for Certified List of Property Owners

Fees and Escrow Deposits (§ 205-139):

The applicant must remit the following application fees and technical review escrow deposits in order for a completeness certification to be issued.

Land Use Application Fees:

Zoning Report (Residential):	\$50.00
C Variance	<u>\$100.00</u>

TOTAL: \$150.00

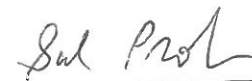
Technical Review Escrow Deposit:

C Variance	<u>\$350.00</u>
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TOTAL: \$500.00

Please remit two separate checks in the above total amounts. Once payment is received, you will be notified regarding the status of your application with respect to a Board hearing, for which proper notification will be required. If you have any questions, you may contact Kristen Olcsvay, Secretary to the Zoning Board of Adjustment, at 732-247-0922, extension 440.

Sincerely,

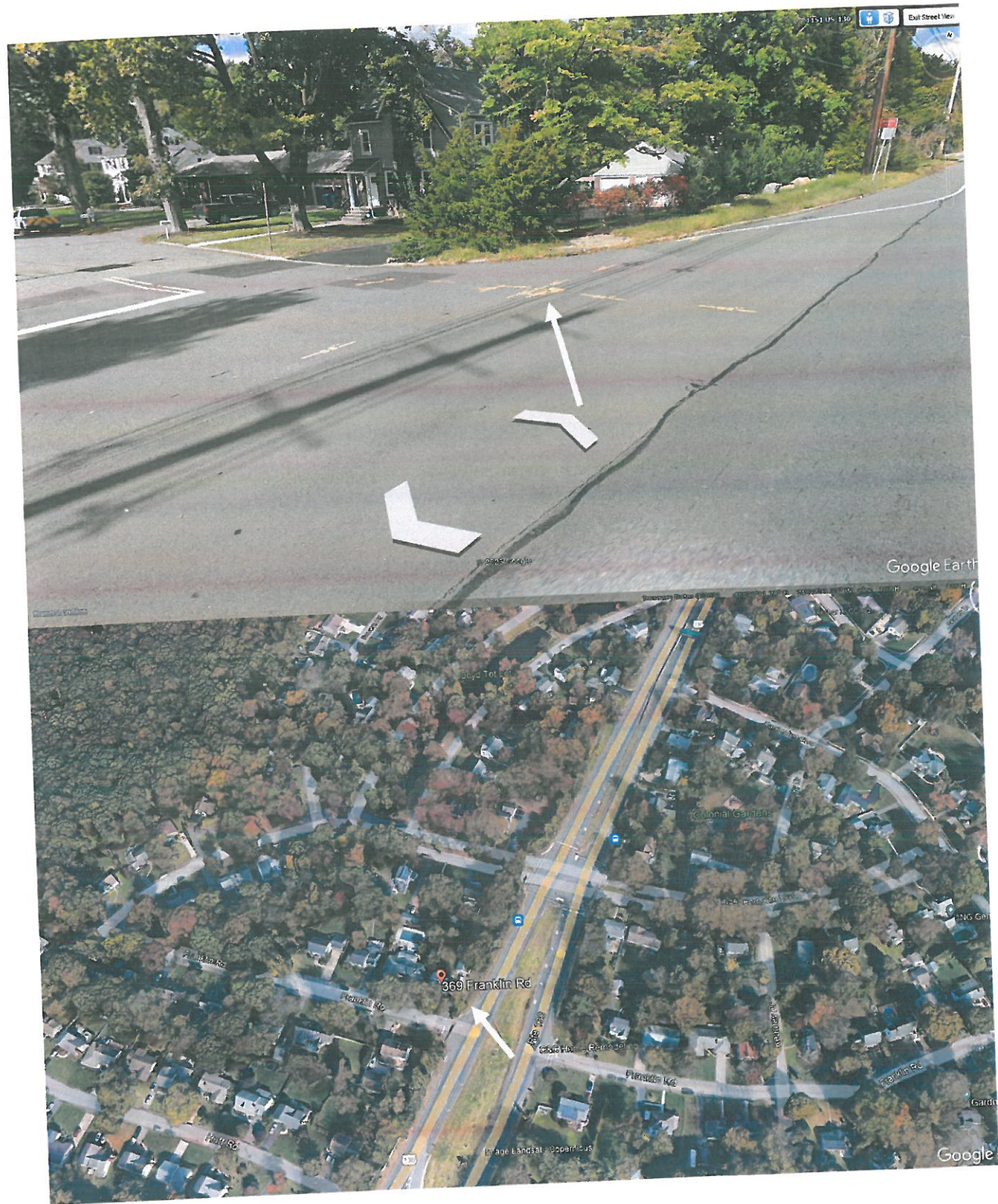


Sal Profaci, Zoning Officer

Phone: 732-247-0922 x 209

Email: sprofaci@northbrunswicknj.gov

c: Mayor and Council
Michael Hritz, Director of Community Development
Tom Vigna, Planner
Zoning Board of Adjustment





For Office Use Only	
Date Filed: _____	Appl. No.: _____
Appl. Fee: \$ _____	Escrow Deposit: \$ _____
Check One:	
<input type="checkbox"/> Zoning Board of Adjustment	
<input type="checkbox"/> Planning Board	

Revision Date: 9/2020

TOWNSHIP OF NORTH BRUNSWICK

Variance Application (FORM C)

The original and fourteen (14) copies of the completed application form supplied by the Township and the required number of copies of supporting documents listed in the applicable checklist must be filed with the Department of Community Development. If a waiver is being requested for any item on the checklist, it must be noted in the "waiver requested" section, and each item must be listed by checklist number and a detailed reason for the request must be provided. Any application that does not include an item required by the checklist, and for which a waiver has not been requested, will be automatically deemed incomplete.

All applications must be accompanied by appropriate fees and escrow deposits together with a written explanation of the amount calculations. Separate application fee and escrow deposit checks must be provided.

In addition to submittal of hard copies of documents, copies of all applications, surveys, plans, reports and studies, such as environmental impact, traffic, stormwater, sewer and water reports, and any other documents associated with the application, shall be submitted on a CD in portable document format (pdf) at 400 x 400 dpi. Submittal of such digital copies shall be required to constitute an application for development, and all revised files shall be resubmitted as the originals are changed or amended. Every electronic submission must be accompanied by a cover letter listing all attached documents and any revisions, where applicable. Single-family or two-family homeowners preparing variance applications on their own behalf shall not be subject to this electronic submission requirement, provided that such applications do not require site plan or subdivision approval.

The following proof of satisfying the notice requirements must be filed with the Secretary of the appropriate Board at least five (5) days prior to the date fixed for the hearing:

- Affidavit of Service
- Copy of notice served
- Certified List of Property Owners within 200 feet and others served with manner of service
- Certified Mail receipts stamped by the USPS
- Affidavit of Publication from the newspaper in which the notice was published.



PART II

Describe the Proposed Development/Request (continue on a separate sheet if necessary):

Fence installation along the side yard, the front yard and back yard.

VARIANCE(S) REQUESTED (Check all that apply):

☐ "C" Variance(s):

- ☐ C(1) - The strict application of the provisions of Chapter 205 would result in peculiar and exceptional practical difficulties or exceptional and undue hardship.
- ☒ C(2) - The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

☐ "D" Variance(s):

- ☐ D(1) - Use or principal structure in a district restricted against such use or principal structure.
- ☐ D(2) - Expansion of a nonconforming use.
- ☐ D(3) - Deviation from a specification or standard pertaining solely to a conditional use.
- ☐ D(4) - Increase in the permitted floor area ratio.
- ☐ D(5) - Increase in the permitted density.
- ☐ D(6) - Height of a principal structure exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.



ASSOCIATED APPROVALS REQUESTED:

Site Plan:

- ☐ Site Plan
☐ Amended Site Plan
☐ Conditional Use

Subdivision:

- ☐ Minor Subdivision
☐ Preliminary Major Subdivision
☐ Final Major Subdivision
☐ Amended Preliminary Major Subdivision
☐ Amended Final Major Subdivision

☐ Other (specify): _____

A change to a nonpermitted use shall require a site plan approval or, as a minimum, a site plan waiver request. Such request may be considered by the Board, and, if granted, will constitute an acknowledgment by the Board that the condition of the property is satisfactory and meets the requirements of Chapter 205. No site plan waiver will be granted if the condition of the property is not satisfactory in such matters as traffic, circulation, access, parking, lighting, setbacks, lot coverage, safety, landscaping, buffer, fire safety, noise or other requirements of Chapter 205

Is a site plan waiver requested?

☒ YES ☐ NO

☐ If a site plan waiver is sought, explain why the request shall be granted:

The condition of the property is satisfactory
pursuant to the requirements of Chapter 205.

Is the application proposed to be bifurcated?

☐ YES ☒ NO

If bifurcated, identify the nature of subsequent development approvals to be sought:

Identify Requested Variances:

Ordinance Section: Requirement:

Proposed Deviation:

§205- _____



§205-		
§205-		
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Identify Requested Design Waivers:

Ordinance Section:	Requirement:	Proposed Deviation:
§205-		
§205-		
§205-		
§205-		
§205-		
§205-		
§205-		
§205-		

“C” Variance(s) (Check one that applies):

☐ A variance under N.J.S.A. 40:55D-70.C(1):

Detail your argument for how this case conforms to this requirement, including, if applicable, reference to exceptional narrowness, shallowness or shape of the property, or exceptional topographic conditions or physical features uniquely affecting the property, or extraordinary and exceptional situations uniquely affecting the property or the structures lawfully existing thereon:



~~any of the neighboring properties facing a county road.~~

and/or

☒ A variance under N.J.S.A. 40:55D-70.C(2):

Detail your argument for how this case conforms to this requirement: The property is not facing a county road. None of the neighboring properties are facing a county road. The township has approved multiple fence installations on corner lots along Route 130.

D Variance(s):

State special reasons why the refusal to allow the project would impose on the applicant an undue hardship and/or how the proposed project carries out a purpose of zoning as defined in N.J.S. 40:55D-2. Detail your argument for 1) how the proposed use inherently serves the public good, and/or 2) why the property cannot reasonably be adapted to a conforming use, and/or 3) what unique characteristics of the site make it particularly appropriate for the proposed use rather than a permitted use:

C and D Variance(s):

Supply a statement of facts why relief can be granted without substantial detriment to the public good: There have already been numerous installations along Route 130 that have not caused any detriment to the public good. This fencing installation is no different.

Supply a statement of facts why relief can be granted without substantial detriment to the intent and purpose of the zone plan and zoning ordinance: There have already been numerous installations that have been granted to corner houses/properties that have not caused any detriment to the intent and purpose of the zone plan and zoning ordinance. This fencing installation is no exception.



PART III

Has there been any previous application to any Township Board involving these premises?

☒ YES ☐ NO

If yes, provide file number(s) and state the nature, date and disposition of said matter:

Basement finishing, electric installation, kitchen renovation, All approved.

Is public water available?

☒ YES ☐ NO

If no, how will water service be supplied?

Is public sewer available?

☒ YES ☐ NO

If no, provide proposed method of sewage disposal:

Are there any existing deed restrictions, easements or covenants?

☐ YES ☒ NO

If yes, are copies provided?

☐ YES ☐ NO

Are any deed restrictions, easements or covenants contemplated?

☐ YES ☒ NO

If yes, are copies provided?

☐ YES ☐ NO

Does the owner own or have any ownership interest in any contiguous property?

☐ YES ☒ NO

If yes, provide type of ownership, address, block and lot(s):

LIST OF PLANS, REPORTS AND OTHER MATERIALS SUBMITTED:


Quantity:	Description of Item:
1	Installation Drawings (Fencing)



DISCLOSURE OF OWNERS OF CORPORATION OR PARTNERSHIP:

A corporation or partnership applying to a Board for permission to subdivide a parcel of land into six or more lots, or applying for a variance to construct a multiple dwelling of 25 or more family units or for approval of a site to be used for commercial purposes shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stocks of any class or at least 10% of the interest in the partnership, as the case may be, as required by N.J.S.A. 40:55D-48.1. Applications which do not comply with N.J.S.A. 40:55D-48.1 et seq. will be deemed incomplete.


Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____
Name: _____	Address: _____

Applicant's Signature:  Date: 3/30/23



ESCROW FUNDS AGREEMENT:

The Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) authorizes the collection of Technical Review Escrow Fees to cover the costs incurred by the Township for professional services involved in the review of land use development applications. Subsection 205-139 of the North Brunswick Township Land Use Ordinance establishes the amount of Technical Review Escrow Fees and the procedures for collecting and replenishing same. I hereby acknowledge and agree to the following: 1) I am responsible for the cost of all reasonable professional services rendered to the Planning Board or Board of Adjustment during the review and processing of my development application. 2) If I receive a written Deficiency Notice from the Chief Financial Officer or his/her designee (CFO) that the balance of funds remaining in the account is insufficient to cover invoices, vouchers or bills submitted to the Township for services which have already been performed, no further consideration, review or processing of the application will be permitted until such time as the funds requested in the Deficiency Notice have been deposited, and this cessation of work could result in carrying my application to the next regularly scheduled public meeting of the designated land use agency. 3) Failure to deposit the amount requested in the Deficiency Notice within ten days of receipt shall toll the period for action by the Planning Board or Board of Adjustment as stipulated in N.J.S.A. 40:55D-1 et seq., and shall bar me from seeking a default approval under N.J.S.A. 40:55D-10.4. 4) Failure to post funds requested in the Deficiency Notice within 45 days shall be grounds for dismissal of my application without prejudice, and I acknowledge that failure to pay the shortfall shall result in the shortfall being deemed a lien on the property which is subject of the land development application. 5) In the event that my application is approved and a Deficiency Notice is received after the approval is memorialized, failure to pay the shortfall amount shall be grounds for voiding the approval. 6) In the event that my application is denied and a Deficiency Notice is received after the denial is memorialized, I am still obligated to pay any shortfall amount, and I acknowledge that failure to pay the shortfall shall result in the shortfall being deemed a lien on the property which is subject of the land development application.

Applicant's Signature:  Date: 3/30/23

Owner's Signature (if different from Applicant): _____ Date: _____



SITE INSPECTION AUTHORIZATION

I hereby give permission for North Brunswick professional staff or municipal agencies and their agents to come upon and inspect these premises with respect to this application.

Owner's Signature: [Signature] Date: 3/30/23

APPLICANT'S CERTIFICATION:

I, Jeffrey Nooten, of full age, being duly sworn according to law and upon my oath, depose that: I reside at 369 Franklin Rd. North Brunswick in the County of Middlesex and State of New Jersey, and that the above statements contained in this application and in the papers appended thereto are true. I further certify that I am the individual applicant, or a general partner of the partnership applicant, or an officer of the corporate applicant, and I am authorized to sign the application for the partnership or corporation.

[Signature]
SIGNATURE

Sworn to and subscribed before me this 16 day of May, 20 23
[Signature]
NOTARY PUBLIC



OWNER'S CERTIFICATION (If the owner is a corporation, this section must be signed by an authorized corporate officer. If the owner is a partnership, this section must be signed by a general partner):

I, _____, of full age, being duly sworn according to law and upon my oath depose that: I reside at _____ in the County of _____ and State of _____, and that the above statements contained in this application and in the papers appended thereto are true. I further certify that I am the owner in fee of all that certain lot, piece or parcel of land



situated, lying, and being in the municipality aforesaid, and known and designated as Block(s)

_____ and Lot(s) _____,

and that I am either the applicant or I have authorized the applicant to make this application, and

I agree to be bound by the application, the representations made and the decision in the same

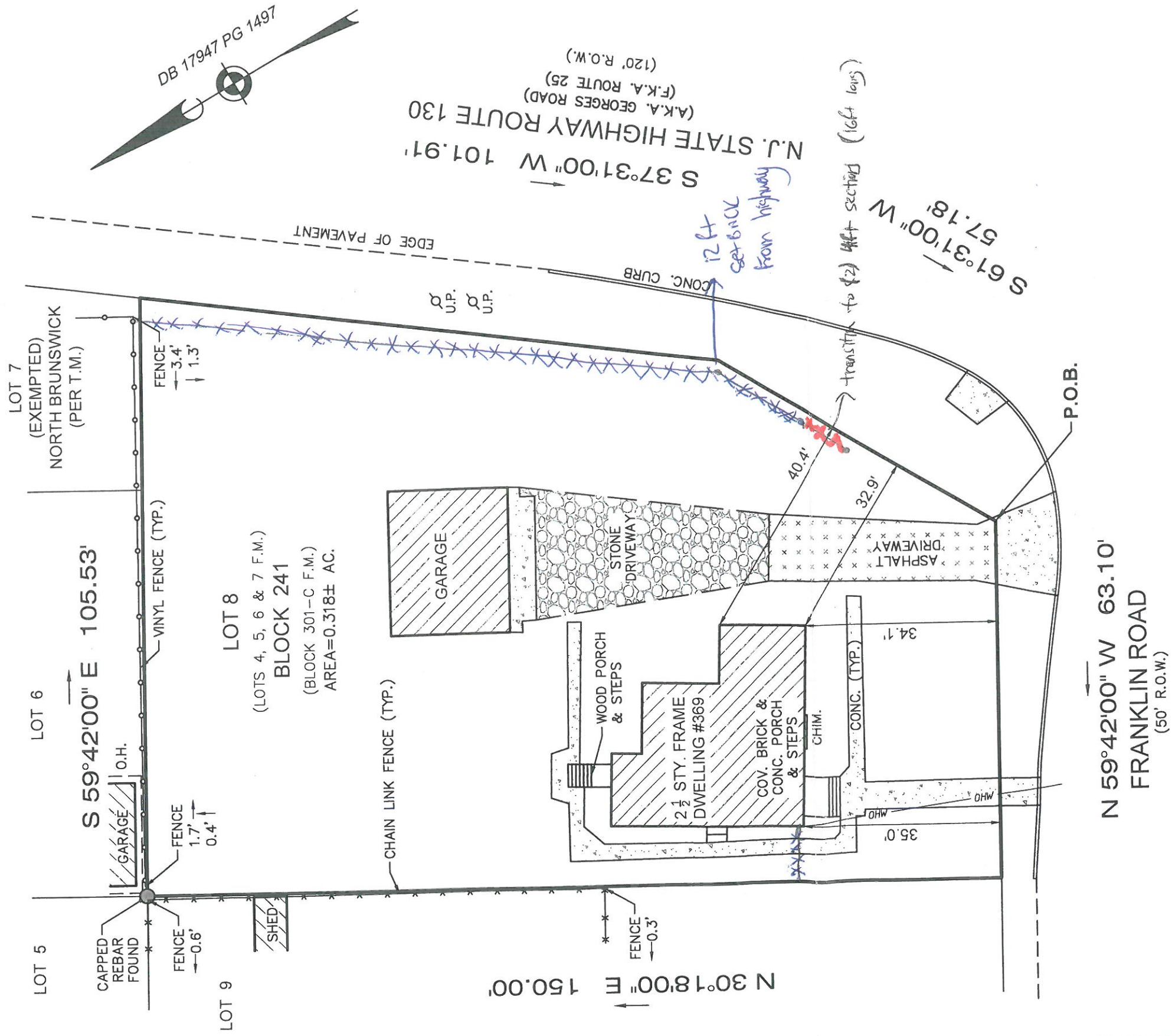
manner as if I were the applicant.

SIGNATURE

Sworn to and subscribed before
me this _____ day of

_____, 20 _____

NOTARY PUBLIC



PREPARED FOR: *JEFFREY WOOTEN and PENNY WOOTEN, husband and wife*

Filed Map Reference: MAP OF COLONIAL GARDENS, SECTION C, SITUATE IN NORTH BRUNSWICK TOWNSHIP, MIDDLESEX COUNTY, NEW JERSEY	Filed Map Block: 301-C	Filed Map Lot: 4, 5, 6 & 7	Filed Date: 1-10-1951	Filed Map No. 1666-940
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IMPORTANT NOTES, PLEASE REVIEW:

- I DECLARE THAT, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF, THIS MAP OR PLAN MADE ON 6/4/21 BY ME OR UNDER MY DIRECT SUPERVISION IS IN ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS.
- THIS SURVEY DOES NOT PURPORT TO IDENTIFY BELOW GROUND ENCROACHMENTS, UTILITIES, SERVICES LINES OR STRUCTURES, WETLANDS, OR RIPARIAN RIGHTS. NO ATTEMPT WAS MADE TO DETERMINE IF ANY PORTION OF THE PROPERTY IS CLAIMED BY THE STATE OF NEW JERSEY AS TIDELANDS, ENVIRONMENTALLY SENSITIVE AREAS, IF ANY ARE NOT LOCATED BY THIS SURVEY.
- OFFSET DIMENSIONS FROM STRUCTURES TO PROPERTY LINES SHOWN HEREON ARE NOT TO BE USED TO REESTABLISH PROPERTY LINES.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR. ALL INFORMATION REGARDING RECORD EASEMENTS, ADJOINERS AND OTHER DOCUMENTS THAT MIGHT AFFECT THE QUALITY OF TITLE TO TRACT SHOWN HEREON WAS GAINED FROM A TITLE REPORT PROVIDED BY THE TITLE INSURER REFERENCED HEREON.
- PROPERTY CORNERS HAVE NOT BEEN SET AS PER CONTRACTUAL AGREEMENT. (N.J.A.C. 13:40-5.1(D))

DB 17947 PG 1497

CERTIFICATE OF AUTHORIZATION: 24GA28229800

**MORGAN**
engineering & surveying

P.O. BOX 5232
TOMS RIVER, N.J. 08754
TEL: 732-270-9690
FAX: 732-270-9691
www.morganengineeringllc.com

SURVEY OF PROPERTY

LOT 8

BLOCK 241

TOWNSHIP OF NORTH BRUNSWICK

DAVID J. VON STEENBURG
PROFESSIONAL LAND SURVEYOR
N.J. LIC. No. 34500

COUNTY OF MIDDLESEX

NEW JERSEY

Scale: 1"=20'	Drawn By: JD	Date: 6-4-21	JOB #: 21-05593	CAD File #: 21-05593JD	Sheet #: 1 OF 1
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